

rules, and through the legislature, and there are many things in this Bill of Rights that we could ignore, because we have adopted federal language.

We can take the position here that if the legislature did something, we do not have to. We could also argue, let us leave out religion and freedom of assembly and freedom of speech, because all we have done is taken the federal language. This does not really mean that much.

THE CHAIRMAN: Delegate Child.

DELEGATE CHILD: I will allot the balance of our time to Delegate Hardwicke.

THE CHAIRMAN: Delegate Hardwicke.

DELEGATE CHILD: He is not here. I will allot it to Delegate Henderson.

THE CHAIRMAN: Delegate Henderson.

Delegate Henderson, you have three and a half minutes.

DELEGATE HENDERSON: I will not take that long.

My purpose in rising really is to call to the attention of the assembly, because it may not be known to all of you, that at the last meeting of the State Bar Association in Atlantic City, there was a very extensive report based on a two-year study by a commission under the chairmanship of Mr. Feldman, of Baltimore City. They went into a thorough study of the whole subject of bail and came up with the suggestion that some major reforms were needed, particularly in connection with the allowance for bail, on which the feeling was that entirely too many people were being held in jail, rather than released on their own recognizance after the sort of study which has been going on in Baltimore City.

Now that report was unanimously approved by the Bar Association, and was referred to the Legislative Council and the Rules Committee. A sub-section of the Rules Committee has been working with the Legislative Council for some months, and they are preparing a joint product consisting of both rules and legislation to liberalize this whole question of bail and bring it in line with some of the results that have been obtained in New York and some other states.

It will greatly improve the whole system of bail.

My feeling about this proposal, putting it in the constitution, is that it simply

muddies the water. It is quite unnecessary. This matter is being studied by the proper authorities and will undoubtedly result in improvements.

I think it muddies the water to put it in the constitution and it might have unfortunate results. It is much better to leave the thing entirely to the legislature.

THE CHAIRMAN: You have a little less than six minutes, Delegate Bothe.

DELEGATE BOTHE: Has Delegate Henderson some time left for a question?

THE CHAIRMAN: Yes.

Delegate Henderson, do you yield to a question?

DELEGATE HENDERSON: I do.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Delegate Henderson, are you aware that Mr. Feldman, who was the attorney in charge of the investigations you referred to being made by the State Bar Association, testified before our Committee that he felt this provision would frankly enhance the possibilities of a clearer bail reform program in this State?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I was not aware of that. I do not know that I agree with him.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: In your opinion, Judge Henderson, would the present constitutional provision for excessive bail give any constitutional right to pre-trial release?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I do not think so, no. It simply leaves the matter open. When you put in specific language like this, which is certainly open to varying interpretations, I think you rather pre-empt the legislative field. I think that is a mistake.

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: What other interpretation could be placed upon the language, other than that the standard for release be that the defendant will appear for trial?

THE CHAIRMAN: Delegate Henderson.

DELEGATE HENDERSON: I do not quite understand the question.